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15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 ALLSTATE INSURANCE COMPANY,
ALLSTATE PROPERTY & CASUALTY
18 INSURANCE COMPANY, ALLSTATE
INDEMNITY COMPANY, and ALLSTATE
19 FIRE & CASUALTY INSURANCE
COMPANY,

20 Plaintiffs,

21 v.

22 RUSSELL J. SHAH, MD, DIPTI R. SHAH,
23 MD, RUSSELL J. SHAH, MD, LTD., DIPTI
R. SHAH, MD, LTD., and RADAR
24 MEDICAL GROUP, LLP dba UNIVERSITY
URGENT CARE, DOES 1-100, and ROES
25 101-200,

26 Defendants.

27 AND RELATED CLAIMS
28

CASE NO. 2:15-cv-01786-APG-DJA

**STIPULATION AND ORDER TO
SUBSTITUTE REDACTED EXHIBITS
AND TO SEAL CONFIDENTIAL
EXHIBITS IN SUPPORT OF
ALLSTATE'S RESPONSE TO RADAR
PARTIES' MOTION FOR SUMMARY
JUDGMENT**

**STIPULATION AND ORDER TO SUBSTITUTE REDACTED EXHIBITS AND TO SEAL
CONFIDENTIAL EXHIBITS IN SUPPORT OF ALLSTATE'S RESPONSE TO RADAR
PARTIES' MOTION FOR SUMMARY JUDGMENT**

Plaintiffs/Counterdefendants ALLSTATE INSURANCE COMPANY, ALLSTATE PROPERTY & CASUALTY COMPANY, ALLSTATE INDEMNITY COMPANY, and ALLSTATE FIRE & CASUALTY COMPANY (hereinafter collectively referred to as "Allstate"), and Defendants and Counterclaimant RUSSELL J. SHAH, M.D., DIPTI R. SHAH, M.D., RUSSELL J. SHAH, M.D., LTD., DIPTI R. SHAH, M.D., LTD., and RADAR MEDICAL GROUP, LLP d/b/a UNIVERSITY URGENT CARE (hereinafter collectively referred to as the "Radar Parties"), by and through their respective counsel of record stipulate and agree as follows:

1. On April 10, 2023, the Honorable Court issued an Order (ECF No. 556) denying without prejudice Allstate's Motion For Leave (ECF No. 550) to: 1. Redact Their Response to Radar Parties' Motion for Summary Judgment (ECF No. 460); and 2. File Under Seal Exhibits in Support of Allstate's Response to Radar Parties' Motion for Summary Judgment on Allstate's Causes of Action in the First Amended Complaint (ECF No. 460) (hereinafter, the "Motion for Leave"). The Court, in denying Allstate's Motion for Leave, granted Allstate leave to file a renewed Motion to Seal associated with its Response (ECF No. 547) to the Radar Parties' Motion for Summary Judgment on Allstate's Causes of Action in its First Amended Complaint (ECF No. 460).

2. In consideration of the Court's Order, the parties met and conferred and reached an agreement as to (i) redactions of Allstate's Response (ECF No. 547) and certain exhibits submitted in support of the Response, and (ii) confidential exhibits to seal that were submitted in support of Allstate's Response.

3. The parties hereby stipulate to the substitution of Allstate's Response (ECF No. 547) containing redactions of confidential and/or protected business and/or financial information of the parties and/or private health information of non-parties. The redacted Response is being publicly-filed with the Court.

4. The parties hereby stipulate to the substitution of Allstate's Appendix of Exhibits to Allstate's Response to Radar Parties' Motion for Summary Judgment (ECF No. 550-1, Exhibits 1-32), containing redactions of confidential and/or protected business and/or financial information of

1 the parties and/or private health information of non-parties in lieu of sealing the entirety of the
2 following exhibits:

3 a. **Exhibit 1:** The parties agree that it is appropriate to redact (i) medical
4 information of a non-party, (ii) private business and financial information of the Radar Parties,
5 including information in relation to the Radar Parties' profit and loss statements, income, salary,
6 and expenses, and (iii) patient/claimant names. As a result, a redacted copy of Exhibit 1 is being
7 publicly-filed with the Court;

8 b. **Exhibit 2:** The parties agree that it is appropriate to redact (i) private
9 business and financial information of the Radar Parties, including dollar amounts discussed in
10 relation to the Radar Parties' charges and lien reductions, and (ii) patient/claimant names. As a
11 result, a redacted copy of Exhibit 2 is being publicly-filed with the Court;

12 c. **Exhibit 3:** The parties agree that it is appropriate to redact
13 patient/claimant names. As a result, a redacted copy of Exhibit 3 is being publicly-filed with the
14 Court;

15 d. **Exhibit 4:** The parties agree that it is appropriate to redact (i) private
16 business and financial information of the Radar Parties, including dollar amounts discussed in
17 relation to the Radar Parties' charges and lien reductions, and (ii) patient/claimant names. As a
18 result, a redacted copy of Exhibit 4 is being publicly-filed with the Court;

19 e. **Exhibit 6:** The parties agree that it is appropriate to redact
20 patient/claimant names. As a result, a redacted copy of Exhibit 6 is being publicly-filed with the
21 Court;

22 f. **Exhibit 8:** The parties agree that it is appropriate to redact
23 patient/claimant names. As a result, a redacted copy of Exhibit 8 is being publicly-filed with the
24 Court;

25 g. **Exhibit 22:** The parties agree that it is appropriate to redact private
26 business and financial information of the Radar Parties, including their Tax ID number and dollar
27 amounts billed and paid in relation to Radar Parties' treatment of the patient/claimants involved in
28 this case. As a result, a redacted copy of Exhibit 22 is being publicly-filed with the Court;

1 h. **Exhibit 25:** The parties agree that it is appropriate to redact
2 patient/claimant names. As a result, a redacted copy of Exhibit 25 is being publicly-filed with the
3 Court;

4 i. **Exhibit 28:** The parties agree that it is appropriate to redact (i) private
5 business and financial information of the Radar Parties, including dollar amounts and percentages
6 discussed in relation to the Radar Parties' charges and lien reductions, and (ii) patient/claimant
7 names. As a result, a redacted copy of Exhibit 28 is being publicly-filed with the Court;

8 j. **Exhibit 30:** The parties agree that it is appropriate to redact
9 patient/claimant names. As a result, a redacted copy of Exhibit 30 is being publicly-filed with the
10 Court;

11 k. **Exhibit 31:** The parties agree that it is appropriate to redact
12 patient/claimant names. As a result, a redacted copy of Exhibit 31 is being publicly-filed with the
13 Court.

14 5. The parties hereby stipulate and agree that the following exhibits to Allstate's
15 Response to the Radar Parties' Motion for Summary Judgment should be sealed and that redacting
16 these exhibits is not feasible under the circumstances given the extent of confidential information
17 discussed or contained in them as described below, *see, e.g., Ansara v. Maldonado*, No. 2:19-cv-
18 01394-GMN-VCF, 2022 WL 17253803, at *3 (D. Nev. Nov. 1, 2022):

19 a. **Exhibit 9:** The parties agree that the excerpts of deposition testimony
20 from patient/claimant A.G. should be sealed as said testimony contains private and confidential
21 medical/health information of the deponent. As a result, the parties request that Exhibit 9 be sealed.

22 b. **Exhibit 10:** The parties agree that the excerpts of deposition testimony
23 from patient/claimant G.P. should be sealed as said testimony contains private and confidential
24 medical/health information of the deponent. As a result, the parties request that Exhibit 10 be sealed.

25 c. **Exhibit 11:** The parties agree that the excerpts of deposition testimony
26 from patient/claimant C.D. should be sealed as said testimony contains private and confidential
27 medical/health information of the deponent. As a result, the parties request that Exhibit 11 be sealed.

28

1 d. **Exhibit 12:** The parties agree that the excerpts of deposition testimony
2 from patient/claimant G.V. should be sealed as said testimony contains private and confidential
3 medical/health information of the deponent. As a result, the parties request that Exhibit 12 be sealed.

4 e. **Exhibit 13:** The parties agree that the excerpts of deposition testimony
5 from patient/claimant Y.W. should be sealed as said testimony contains private and confidential
6 medical/health information of the deponent. As a result, the parties request that Exhibit 13 be sealed.

7 f. **Exhibit 14:** The parties agree that the excerpts of deposition testimony
8 from patient/claimant R.W. should be sealed as said testimony contains private and confidential
9 medical/health information of the deponent. As a result, the parties request that Exhibit 14 be sealed.

10 g. **Exhibit 15:** The parties agree that it is appropriate to seal excerpts from
11 the deposition of Peter Grant, M.D. and Dr. Grant's accompanying expert report as said testimony
12 and document contain (i) private business and financial information of the Radar Parties, including
13 dollar amounts discussed in relation to the Radar Parties' charges, (ii) patient/claimant names, and
14 (iii) details concerning confidential patient medical records/health information and patient
15 testimony. As a result, the parties request that Exhibit 15 be sealed.

16 h. **Exhibit 16:** The parties agree that it is appropriate to seal excerpts from
17 the deposition of Kurt Miller, M.D. and Dr. Miller's accompanying expert report as said testimony
18 and document contain (i) private business and financial information of the Radar Parties, including
19 dollar amounts discussed in relation to the Radar Parties' charges, (ii) patient/claimant names, and
20 (iii) details concerning confidential patient medical records/health information and patient
21 testimony. As a result, the parties request that Exhibit 16 be sealed.

22 i. **Exhibit 17:** The parties agree that it is appropriate to seal excerpts from
23 the deposition of Dean Nickles, M.D. and Dr. Nickles' accompanying expert reports as said
24 testimony and documents contain (i) private business and financial information of the Radar Parties,
25 including dollar amounts discussed in relation to the Radar Parties' charges, (ii) patient/claimant
26 names, and (iii) details concerning confidential patient medical records/health information and
27 patient testimony. As a result, the parties request that Exhibit 17 be sealed.

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1 j. **Exhibit 18:** The parties agree that it is appropriate to seal excerpts from
 2 the deposition of Leslie Dorfman, M.D. and Dr. Dorfman's accompanying expert report as said
 3 testimony and document contain (i) private business and financial information of the Radar Parties,
 4 including dollar amounts discussed in relation to the Radar Parties' charges, (ii) patient/claimant
 5 names, and (iii) details concerning confidential patient medical records/health information and
 6 patient testimony. As a result, the parties request that Exhibit 18 be sealed.

7 k. **Exhibit 19:** The parties agree that it is appropriate to seal excerpts from
 8 the deposition of Richard Ofstein, M.D. and Dr. Ofstein's accompanying expert report as said
 9 testimony and document contain (i) private business and financial information of the Radar Parties,
 10 including dollar amounts discussed in relation to the Radar Parties' charges, (ii) patient/claimant
 11 names, and (iii) details concerning confidential patient medical records/health information and
 12 patient testimony. As a result, the parties request that Exhibit 19 be sealed.

13 l. **Exhibit 21:** The parties agree that medical records of non-party claimants
 14 should be sealed as said medical records and related documents contain private and confidential
 15 medical/health information of non-parties. As a result, the parties request that Exhibit 21 be sealed.

16 m. **Exhibit 23:** The parties agree that proprietary business and financial
 17 information of the Radar Parties and private information related to non-parties should be sealed. As
 18 a result, the parties request that Exhibit 23 be sealed.

19 n. **Exhibit 27:** The parties agree that Aaron Patterson's Declaration and its
 20 corresponding attachments contain proprietary information as to the claim handling process of
 21 Allstate as well as confidential medical/health information of non-party claimants. As a result, the
 22 parties request that Exhibit 27 be sealed.

23 6. The parties stipulate and agree that Exhibits 5, 7, 20, 24, 26, 29, and 32 to Allstate's
 24 Response to the Radar Parties' Motion for Summary Judgment do not require redaction and do not
 25 need to be sealed; and thus, they will be publicly-filed.

26 7. If necessary or required by this Court, the parties respectfully request that this
 27 Stipulation be treated as a joint motion.

28 ///

8. The parties maintain that compelling reasons exist to justify redacting the Response and sealing/redacting Exhibits to the Response, beyond treatment of the information as confidential pursuant to the terms of the Stipulated Confidentiality Agreement and Protective Order (ECF No. 39). *See, e.g., Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). Specifically, and as noted above:

a. The Response and exhibits contain or reference private information related to non-parties to this case for which redaction and/or sealing is warranted, *see, e.g., Ansara v. Maldonado*, No. 2:19-cv-01394-GMN-VCF, 2022 WL 17253803, at *3 (D. Nev. Nov. 1, 2022); *Cox v. Lewis*, No. 2:20-cv-01792-JCM-BNW, 2022 WL 10632379, at *2 (D. Nev. Oct. 18, 2022); *Brodsky v. Baca*, No. 3:14-cv-00641-RCJ-WGC, 2015 WL 6962867, at *1 (D. Nev. Nov. 10, 2015);

b. The Response and exhibits contain confidential business and financial information related to the Radar Parties for which redaction and/or sealing is warranted, *see, e.g., Boca Park Marketplace Syndications Group, LLC v. Ross Dress for Less, Inc.*, 2:16-cv-01197-RFB-PAL, 2018 WL 1524432, at *5 (D. Nev. Mar. 28, 2018); *Koninklijke Philips N.V. v. Elec-Tech Int'l Co.*, No. 14-cv-02737-BLF, 2015 WL 581574, at *2 (N.D. Cal. Feb. 10, 2015); and/or

c. The Response and exhibits contain confidential business information related to Allstate for which redaction and/or sealing is warranted, *see, e.g., In re Google Location History Litig.*, 514 F. Supp. 3d 1147, 1162 (N.D. Cal. 2021); *Koninklijke Philips N.V.*, 2015 WL 581574, at *2.

9. The Court has previously recognized that similar information found in exhibits attached to the parties' briefing on summary judgment is appropriately subject to redaction. *See generally* Order, filed Feb. 28, 2023 (ECF No. 507); *see also* Order, filed Apr. 10, 2023 (ECF No. 556) (permitting the Radar Parties to redact their Motion for Summary Judgment and to seal/redact exhibits supporting their Motion for Summary Judgment). Such ruling aligns with prior rulings by the Court. *See* Order, filed Sept. 20, 2016 (ECF No. 67); Order, filed Apr. 4, 2017 (ECF No. 133); Order, filed Apr. 4, 2017 (ECF No. 134); Order Grant. Mots. Seal, filed Jan. 2, 2018 (ECF No. 217).

10. For these reasons, the parties respectfully request that the Court approve this Stipulation and grant the following relief:

1 a. Enter an Order redacting Allstate's Response (ECF No. 547) to the Radar
2 Parties' Motion for Summary Judgment (ECF No. 460);

3 b. Enter an Order redacting Exhibits 1, 2, 3, 4, 6, 8, 22, 25, 28, 30, and 31 to
4 Allstate's Response (ECF No. 547) to the Radar Parties' Motion for Summary Judgment (ECF No.
5 460); and

6 c. Enter an Order sealing Exhibits 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21,
7 23, and 27 to Allstate's Response (ECF No. 547) to the Radar Parties' Motion for Summary
8 Judgment (ECF No. 460).

9 IT IS SO STIPULATED.

10 Dated: May 1, 2023

Dated: May 1, 2023

11 McCORMICK, BARSTOW, SHEPPARD,
12 WAYTE & CARRUTH, LLP

BAILEY KENNEDY

13 By: /s/ Todd W. Baxter

By: /s/ Joshua P. Gilmore

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21
22 **ORDER**

23 Based on the parties' Stipulation, including the specific factual findings for overcoming the
24 public's presumptive right of access to judicial records; the standards for seeking to seal or redact
25 documents attached to a dispositive motion pursuant to the Ninth Circuit's directives in *Kamakana*
26 *v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), and *Ctr. for Auto Safety v. Chrysler*
27 *Group, LLC*, 809 F.3d 1092 (9th Cir. 2016); upon balancing the competing interests of the public
28 and the parties; and good cause appearing,

1 **IT IS ORDERED** that the above Stipulation is **GRANTED**.

2 **IT IS FURTHER ORDERED** that compelling reasons exist to redact Allstate's Response
3 (ECF No. **560**) to the Radar Parties' Motion for Summary Judgment (ECF No. 460).

4 **IT IS FURTHER ORDERED** that compelling reasons exist to redact Exhibits 1, 2, 3, 4, 6,
5 8, 22, 25, 28, 30, and 31 to Allstate's Response (ECF No. **560**) to the Radar Parties' Motion for
6 Summary Judgment (ECF No. 460).

7 **IT IS FURTHER ORDERED** that compelling reasons exist to seal Exhibits 9, 10, 11, 12,
8 13, 14, 15, 16, 17, 18, 19, 21, 23, and 27 to Allstate's Response (ECF No. **561**) to the Radar Parties'
9 Motion for Summary Judgment (ECF No. 460).

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11 **IT IS FURTHER ORDERED** that Allstate must file unredacted versions of Exhibits 1, 2, 3, 4, 6,
12 8, 22, 25, 28, 30, and 31 under seal on or before **May 30, 2023**.

13 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to **STRIKE** Allstate's
14 Response (ECF No. 547) because it has been replaced by ECF No. 560 and **STRIKE** Allstate's
15 Exhibits in Support of its Response (ECF No. 548).

16 **IT IS FURTHER ORDERED** that Allstate's Sealed Response (ECF No. 549) shall remain under
17 seal.

18 **IT IS FURTHER ORDERED** that Allstate's Sealed Exhibit (ECF No. 561) shall remain under
19 seal.

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24 DANIEL J. ALBRECHTS
25 UNITED STATES MAGISTRATE JUDGE

26 DATED: May 8, 2023
27
28

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UNITED STATES DISTRICT COURT

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ALLSTATE INSURANCE COMPANY,
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INSURANCE COMPANY, ALLSTATE
INDEMNITY COMPANY, and ALLSTATE
FIRE & CASUALTY INSURANCE
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Plaintiffs,

v.

RUSSELL J. SHAH, MD, DIPTI R. SHAH,
MD, RUSSELL J. SHAH, MD, LTD., DIPTI
R. SHAH, MD, LTD., and RADAR
MEDICAL GROUP, LLP dba UNIVERSITY
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CASE NO. 2:15-cv-01786-APG-DJA

**INDEX OF ALL EXHIBITS TO
ALLSTATE'S RESPONSE TO RADAR
PARTIES' MOTION FOR SUMMARY
JUDGMENT [Docs 460, 461]**

AND RELATED CLAIMS

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2	Excerpts of Dipti Shah Transcript Volume 2 REDACTED	000044-000058
3	Excerpts of Dipti Shah Transcript Volume 3 REDACTED	000059-000066
4	Excerpts of Dipti Shah Transcript, Volume 4 REDACTED	000067-000076
5	Excerpts of Russell Shah Transcript, Volume 1	000077-000094
6	Excerpts of Russell Shah Transcript, Volume 2 REDACTED	000095-000105
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9	Excerpts of Amanda Golden Transcript FILED UNDER SEAL	000115-000122
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